

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**ERIK SHERNEY WILLIAMS,**

**Defendant.**

**Case No. 21-CR-104-JFH**

**OPINION AND ORDER**

Before the Court is an unopposed motion to amend judgment (“Motion”) filed by Defendant Erik Sherney Williams (“Defendant”). Dkt. No. 66. The Motion states the United States of America (“Government”) does not oppose the request. *Id.* at 5.

Defendant invokes Federal Rule of Criminal Procedure 35(a), which states “Within 14 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other clear error.” Fed. R. Crim. P. 35(a). The purported “clear error” was that “[t]he parties made no specific request as to which sovereign (the federal government or Oklahoma) would retain primary custody of Mr. Williams, assuming that . . . primary custody and jurisdiction rested with the federal government after dismissal of the state conviction and sentence.” Dkt. No. 66 at 3. The Motion asks the Court to amend the judgment under Rule 35(a) to “specify that the Bureau of Prisons should have primary custody of him for the duration of his federal sentence.” *Id.* at 4. This is not a “clear error” made during sentencing or an appropriate use of Rule 35(a), which is generally used to correct scrivener’s errors. Issues of primary custody are another matter entirely. *See Weekes v. Fleming*, 301 F.3d 1175, 1180 (10th Cir. 2002) (describing the concept of primary custody as a rule of comity between jurisdictions); *Gee v. Kansas*, 912 F.3d 414, 417 (10th Cir. 1990) (“Whether custody of a prisoner will be surrendered or retained is a matter of comity and is

to be determined by the sovereign having custody.”). The Motion provides no authority, and the Court is aware of none, to support the proposition that the Court should intervene in issues relating to primary custody.

IT IS THEREFORE ORDERED that the unopposed motion to amend judgment [Dkt. No. 66] is DENIED.

Dated this 13th day of September 2023.

  
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JOHN F. HEIL, III  
UNITED STATES DISTRICT JUDGE